



**Convention on the
Rights of the Child**

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**Committee on the Rights of the Child
Seventy-second session**

Summary record of the 2110th meeting*

Held at the Palais Wilson, Geneva, on Thursday, 19 May 2016, at 3.00 p.m.

Chair: Mr. Mezmur

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Combined third to fifth periodic reports of Nepal

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- * No summary records were issued for the 2108th and 2109th meetings.

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The meeting was called to order at 3.05 p.m.

Consideration of reports of States parties (continued)

Combined third to fifth periodic reports of Nepal (CRC/C/NPL/3-5; CRC/C/NPL/Q/3-5; CRC/C/NPL/Q/3-5/Add.1)

1. *At the invitation of the Chair, the delegation of Nepal took places at the Committee table.*
2. **Mr. Prasad Regmi** (Nepal) said that the new Constitution, which had come into force in 2015, enshrined respect for the rights of the child as a fundamental principle. Those rights included the right to development, education and health care. In addition, a number of provisions of the Convention specifically prohibited practices such as child marriage, human trafficking, the employment of children in hazardous forms of labour and child abuse. The Government was in the process of amending the Children's Act of 1992 in order to prohibit all forms of violence against children, including corporal punishment in any and all settings. The definition of a child was also to be changed in the amended law so that all persons under 18 years of age would be considered children.
3. Implementation of the Education for All and School Sector Reform Programme had boosted the primary-school enrolment rate to 96.2 per cent. Enrolment in secondary education had also increased. The percentage of the nation's schoolteachers who were fully qualified had also increased significantly, as had the literacy rate among children between 6 and 15 years of age.
4. Efforts had been devoted to raising the child immunization rate and to ensuring that funds were available for immunization programmes at the national level. Nepal had managed to achieve the target for the fourth Millennium Development Goal on the reduction of child mortality, as had been noted by the World Health Organization (WHO).
5. Under the National Children's Policy of 2012, no child was to be involved in armed conflict or hazardous forms of labour, and legal sanctions for violations of its provisions had been introduced. A number of government entities, including the Ministry of Labour and Employment, were coordinating their efforts to monitor the child labour situation, to protect children, to penalize persons who employed them in factories and to rehabilitate rescued child labourers. In line with the Street Children Rescue, Protection and Management Guidelines of 2015, a rescue procedure had been established and support centres for street children had been set up. The Government had also introduced a national strategy for eradicating the practice of child marriage in Nepal by 2030. The Women's Development Programme focused on promoting the social and economic development of women and protecting their rights and the rights of children; one of its main lines of action was to combat gender-based violence. Around 1 million women belonged to the women's groups formed under that programme. In addition, over 400,000 children belonged to the nationwide network of children's clubs.
6. Significant achievements had been made in advancing the rights of the child in Nepal, yet children remained particularly vulnerable to adversity in the aftermath of the devastating earthquake that had struck Nepal in 2015. Poverty and parental unemployment were another major obstacle to improving the standard of living of children in Nepal. The Government had, however, intensified its efforts to address those problems and was firmly committed to fully implementing the Convention by legislative, administrative and judicial means.
7. **Mr. Cardona Llorens** (Coordinator, Country Task Force) said that the Committee would like to reaffirm its solidarity with Nepal in the wake of the 2015 earthquake, the consequences of which were still being felt. While it was commendable that the State party

had ratified two of the optional protocols to the Convention, it had not yet ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. Given that the State party had already agreed to the use of communication procedures in respect of other Conventions, he urged the Government to ratify the third Optional Protocol as soon as possible.

8. The State party was to be commended on its new Constitution, but new legislation and amendments to existing laws were needed in order to ensure its full implementation. The Committee would appreciate an update on legislative efforts in that regard, especially concerning the amendment of the Children's Act of 1992 to raise the age limit used to define who was a child from 16 to 18 years of age. Would the new age limit also apply to the determination of adult criminal responsibility?

9. Given that the implementation period for the National Plan of Action for Children had come to an end in 2015, the Committee would appreciate an update on the progress made under that plan and would like to know if those achievements had been evaluated. Was the Government going to introduce a new plan with a specific budget allocation for its implementation? The State party appeared to have a number of different plans in place regarding issues such as child labour, trafficking and gender-based violence. The Committee would like to know how those plans were being coordinated and implemented. What resources were allocated for each of the plans? It was important to put in place a coordination mechanism for all government agencies responsible for issues relating to children's rights. Were there plans to do so? While the National Women's Commission was responsible for protecting the rights of women, there was no such commission for children. The Committee would therefore like to know if the Government envisaged setting up such a body. Did the National Human Rights Commission have a specialized section focusing on the rights of the child with staff specially trained in that area? Were individuals able to submit complaints to the Human Rights Commission?

10. While numerous budget allocations for earthquake response actions had been increased, the Committee would like to know more about how funding for vulnerable groups, such as children, had been prioritized. In particular, how much funding had been allocated for rebuilding schools and hospitals, and what measures had been put in place to combat corruption and ensure that those funds were not being diverted? The data made available to the Committee were not integrated or disaggregated, making it very difficult to analyse the situation in the State party, and data-collection functions should therefore be more closely coordinated in the future.

11. The Committee was keen to learn more about the methods used to publicize the Convention and to ensure that children were aware of its provisions. It was clear that the State party still faced significant challenges in providing Nepalese children with adequate protection against discrimination on the grounds of gender, religion, caste, ethnicity, religion and disability. As anti-discrimination legislation alone was not enough to eliminate all forms of discrimination against children in Nepal, he would appreciate additional information on the specific policies, awareness-raising campaigns and affirmative action measures adopted by the State party to that end.

12. The Committee was also concerned by the negative impact of food shortages on the development of children in Nepal, especially as nearly 40 per cent of children under 5 years of age were reportedly undernourished. Were there specific programmes in place to alleviate the situation of those children?

13. He would like additional information on the practical measures taken to put an end to the torture and ill-treatment of children in detention facilities, which was on the rise. In particular, he was keen to know what steps had been taken to investigate the specific case of an 11-year-old boy who had reportedly been tortured by police in the Pachuwahat police

station in the district of Kavre in 2011 and what steps had been taken to punish those responsible. He also wished to learn more about the State party's general approach to dealing with children who had been subjected to torture, involved in an armed conflict or abducted as part of such a conflict.

14. Noting that the State party was preparing to outlaw the corporal punishment of children, he asked whether the law in question would cover all forms of violence committed within the family, in schools and in residential care facilities. The alarming frequency with which women and girls were subjected to physical, psychological and sexual abuse in a variety of settings in Nepalese society was a serious cause of concern for the Committee. According to the most recent National Demographic Health Survey, one third of women admitted to having been raped by the age of 15. He wished to know what specific measures the State party was taking to combat gender-based violence, especially the rape of young girls, whether there were laws in force to prevent and punish child abuse, whether there were effective complaints mechanisms in place for children, what penalties were typically handed down to the perpetrators of child abuse and whether compensation had been provided to adults who had been raped as children during the Nepalese civil war.

15. **Ms. Sandberg** (Country Task Force) said that she would like to know in which laws, programmes and policies the best interests of the child had been established as the main criterion for decision-making and whether that concept was clearly defined in those instruments. Had the State party drawn up guidelines to assist the national courts and other decision-making bodies in applying that principle? Were judges, social workers and child protection officers provided with training on how to apply that principle in the course of their duties? She would be interested to learn whether the State party intended to adopt legislation to give effect to the principle of child participation as set forth in the new Constitution. She welcomed the fact that children's clubs were frequented by so many children and would like to know more about the specific mandate of such clubs and the activities through which the children learned to express their views and opinions. Did those clubs encourage children to participate in democratic processes? Were they accessible to underprivileged and marginalized children? The child-friendly nature of local governments and their policy of involving children in certain decision-making processes were also commendable. She wished to know how local governments ensured the effective participation of children from all backgrounds in decision-making processes concerning them and how they took account of the ethical concerns surrounding children's participation in such activities.

16. Notwithstanding the prohibition of child marriage under the new Constitution and the national strategy adopted to eradicate that practice, child marriage remained prevalent, with around 50 per cent of girls reportedly marrying before the age of 18. Moreover, a number of inconsistencies persisted between the civil and criminal law provisions dealing with that practice. She asked how the State party planned to resolve those inconsistencies and to facilitate the effective enforcement of the prohibition of child marriage; whether children forced into marriage had access to legal remedies; and whether child marriages, including those which had produced children, could be declared null and void and, if so, at what stage. Information would be appreciated regarding the protection and assistance provided to children who had been forced into marriage and the measures in place to prevent further early marriages from taking place. Could parents or other adults involved in arranging an early marriage be prosecuted under Nepalese law? How did the State party intend to address the fact that financial hardship occasioned by the earthquake had driven many families to arrange early marriages for their children as a means of survival? Noting that it was not uncommon for girls to view marriage as a rite of passage or as a means of helping their family, she asked whether the State party planned to conduct awareness-raising initiatives in an attempt to change attitudes towards early marriage in Nepalese society.

17. Lastly, the Committee was deeply concerned about the discrimination, ill-treatment and abuse — including temporary expulsion from the family home and school — to which many women and girls who were menstruating were subjected because they were perceived as being dirty or impure. Had the measures adopted by the State party to combat that and other harmful traditional practices proven effective?

18. **Ms. Muhamad Shariff** (Country Task Force) said that she would like to know whether the bill amending the existing Children's Act had already been adopted and, if not, when its adoption was likely to take place. According to the most recent National Demographic Health Survey, only around 40 per cent of children under the age of 5 were registered and were in possession of a birth certificate. She invited the State party to explain why it generally gave precedence to the registration of older children over that of infants. She wished to learn whether it was compulsory to register a child's birth in Nepal, whether the low rate of birth registration in the country was attributable to deficiencies in the birth registration system or to a lack of trained staff in local registration offices and whether, as a general rule, children could be registered under the name of their mother alone. The Committee had received reports that, despite the steps taken by the State party to remove the procedural obstacles to registering the birth of a child whose father was unknown — as in the case of a child born out of wedlock or as a result of rape, refugee and asylum-seeking children and abandoned children — many mothers continued to encounter difficulties in that regard. She wished to invite the delegation to comment on those reports. She would also like to know whether the State party collected disaggregated data on births and birth registration for planning and/or monitoring purposes.

19. It was her understanding that, under the new Constitution, a Nepalese man could transmit Nepalese citizenship to his children regardless of the nationality of his wife, whereas a Nepalese woman married to a foreign national could only transmit Nepalese citizenship to her children once her husband had also acquired Nepalese citizenship. Such differential treatment amounted to gender-based discrimination. Was the State party considering waiving the requirement for the father of a child to be a Nepalese citizen in order for the child's birth to be registered?

20. The Committee was concerned by the involvement of children in electoral campaigns. Since there was a special code of conduct for elections which prohibited political parties from involving children under the age of 16 in such activities, she would like to know whether persons who violated that code were prosecuted and punished as a matter of course and whether the State party had undertaken any campaigns to raise awareness of children's rights among members of political parties. She also wished to know whether there was a law in force which guaranteed the right of children to freedom of expression and to have their views taken into account in relevant decision-making forums.

21. There was evidence to suggest that the right of children to freedom of thought, conscience and religion was seldom respected within the family or by State institutions. The Committee had also received reports that children were often enticed to convert to another religion in return for food or material benefits. Had the State party taken any steps to promote respect for that right, to foster religious and ethnic diversity and to put an end to the discrimination faced by religious minorities, particularly Muslims?

22. She would like to learn more about the State party's approach to the task of ensuring that parents, teachers and the media respected the right of children to privacy and that children had access to appropriate information on education, health-care services, social security benefits and relevant legal procedures. She also wished to know whether the State party planned to adopt a law to protect children from the dangers associated with using the Internet and social media or to introduce a code of conduct on the appropriate use of technology.

The meeting was suspended at 4.05 p.m. and resumed at 4.25 p.m.

23. **Mr. Gnyawali** (Nepal) said that the Government recognized the need to adopt specific laws and policies to give effect to the fundamental rights of children that were enshrined in the new Constitution. The Ministry of Law, Justice and Parliamentary Affairs had identified specific aspects of children's rights that warranted special attention and, in consultation with other relevant ministries, had devised a strategy and a timeline for drafting and adopting new laws and revising existing laws concerning children's rights. The bill amending the Children's Act was still the subject of ongoing consultations so had not yet been adopted. Once the task of bringing the provisions of the bill into line with those of the new Constitution had been completed, the final version of the bill could be submitted to the national parliament for approval. The bill addressed many of the issues raised during the interactive dialogue with the Committee, including the legal definition of a child and the minimum age of criminal responsibility. Once the bill had been adopted, the Government could begin the process of harmonizing the varying definitions of a child and the different minimum ages of criminal responsibility laid down in other laws.

24. **Mr. Dhital** (Nepal) said that the Government was committed to achieving the full realization of children's rights in Nepal and, despite the scant resources available to it, had adopted a large number of policies and strategies in an effort to reach that goal. It was grateful for the financial assistance that it had received from the international community and had channelled those funds into actions aimed at protecting and promoting children's rights and interests. The Central Child Welfare Board also worked to protect and promote children's rights and played a coordinating role on the ground. The Social Welfare Council coordinated the activities of NGOs involved with children's issues, whereas the Ministry of Women, Children and Social Welfare was responsible for coordinating the activities carried out by public agencies and other ministries. There were plans to form a council, to be chaired by the Minister for Women, Children and Social Welfare, to deal with broader issues of relevance to children. Local offices monitored the situation with respect to children's rights in each of the country's districts, while the overall situation was monitored by the National Human Rights Commission, which had a special office devoted to children's issues. NGOs also contributed to those efforts, and more disaggregated data were being collected.

25. Steps were being taken to draw up women- and child-friendly budgets. Much of the money received from donors after the earthquake in April 2015 was being used to rebuild schools and hospitals. A shortage of supplies had slowed the pace of reconstruction, but it had picked up in recent months. Mechanisms to ensure accountability for the expenditure of donated funds were in place. The country's lawmakers were also vigilant in that respect.

26. Violence against children was not tolerated in Nepal. When cases of such violence were reported, investigations were carried out and the perpetrators were held responsible. Two institutions, one of which was the Truth and Reconciliation Commission, had been set up in the wake of the country's civil war and had begun receiving victim complaints. Rape was taken very seriously by the authorities and, thanks to a supportive environment, more and more rape victims were willing to report that crime. No rapist could count on impunity. Despite reports indicating otherwise, the percentage of Nepalese women and girls who were likely to be victims of rape during their lifetime was not known with any certainty.

27. Poverty tended to make it harder to root out such harmful practices as *chaupadi* and early marriage, especially in far-flung areas of the country. Efforts were made to ensure that girls were educated so that they could make their own decisions about marriage. Parents were increasingly supportive of their daughters' decisions in that regard.

28. Children did not take part in political activities. Their task was to attend school. In recent years, persons found preying on children online had been prosecuted under the country's new Internet laws.

29. As a birth certificate was required in order to enrol a child in school, families had a powerful incentive to register the births of their children, and the practice was increasing. However, as a result of communication difficulties, low levels of awareness and the country's difficult terrain, some families still did not register their children's births. Measures were being taken to ensure that all children were provided with birth certificates and would thus be eligible to receive vital public services.

30. **Ms. Sandberg** said that she would appreciate specific information on the reduction in the number of child marriages in the State party. She asked what measures had been taken to protect children, girls in particular, who had been obliged to marry. She would also welcome information on how children's clubs participated in decision-making at the local level or in schools.

31. **Mr. Cardona Llorens**, noting that a number of the delegation's replies had been overly generic, asked whether the State party intended to amend the law that governed the activities of the National Human Rights Commission. Would any such amendment provide for the direct submission of complaints to the Commission by children? He would like to know what steps the authorities intended to take to ensure that the resources donated to the Nepalese people after the 2015 earthquake were equitably distributed to children throughout the country, not just those in Kathmandu. He would welcome clarification of the Government's position on the prosecution of persons accused of having committed rape and other war crimes during the recent conflict.

32. **Mr. Dhital** (Nepal) said that, although child marriage was prohibited by the Constitution, its continued existence had to be acknowledged. It was not as prevalent as it once had been, however. A strategy which was to be pursued by a number of different ministries and public agencies and whose main goal was to end child marriage by 2030 had been launched at the Nepal Girl Summit held in March 2016.

33. Nepal did not have a separate commission for the protection and promotion of children's rights, as it did in the case of the rights of women or Dalits, but the National Human Rights Commission had a focal point for children's issues. The authorities were in the process of introducing a coding system that would make it possible to identify budget allocations earmarked for matters concerning children more accurately. The Central Bureau of Statistics was developing a multiple indicator cluster survey for data-collection purposes. Other public institutions, including the Central Child Welfare Board, also compiled disaggregated data. The challenge was to build better links between discrete data sources.

34. The Convention had been translated into Nepalese and other local languages spoken in Nepal. Awareness and training programmes run by the Ministry of Women, Children and Social Welfare included a session devoted to the Convention.

35. To encourage girls to attend school, in particular when they were menstruating, special measures were being taken to ensure that separate toilets and changing rooms were included in the schools being rebuilt in the districts hit by the earthquake. The new Constitution expressly stated that no child was to be subjected to physical, mental or any other form of torture. He could assure Mr. Cardona Llorens that departmental action had been taken against the policeman responsible for the abuse of a boy in a police station in Kavre District. To prevent the occurrence of such incidents in the future, human rights units had been set up in the country's military and police forces.

36. Other recent developments included the amendment to the Civil Code that introduced a prohibition on corporal punishment, initiatives designed to encourage child-

friendly local governance and a proposal, included in the bill amending the Children's Act, to establish a high-level committee to facilitate the coordination of work on issues of concern to children. In his capacity as a member of the Election Commission, he himself had reviewed alleged violations of the Election Code of Conduct. Action had been taken against those found to have violated the Code, including a sitting minister.

37. **Mr. Rupakhetee** (Nepal) said that, according to a number of sources, including the United Nations Children's Fund (UNICEF), rates of child marriage had been falling in recent years. Both the Government and civil society had contributed to the progress made in that respect. The National Strategy to End Child Marriage focused on empowering and educating girls, engaging boys and men, and mobilizing religious leaders and society as a whole. Legal reform was another component of the Strategy. For instance, by law, girls who had already married were entitled to contraceptives. Efforts were being made to sensitize civil society, religious leaders and concerned adults about the issue of child marriage. Girls who were already married were provided with services, such as assistance with contraception or counselling in pregnancy spacing, by the State. The current budget included a special allocation for the effort to combat child marriage, and the Department of Women and Children was implementing a special service package in 36 out of the country's 75 districts. The Government had asked all development partners to earmark funds for efforts to put an end to all harmful traditional practices, including child marriage. At the London Girl Summit of July 2014, Nepal had made a commitment to end child marriage by 2020, a target date that had subsequently been extended to 2030 in line with the Sustainable Development Goals. The implementation of the 2005-2015 National Plan of Action for Children had now been evaluated, and measures targeting harmful traditional practices and child exploitation would be incorporated into the next plan of action.

38. Efforts were being made to provide alternative care for children by placing them in a family environment under foster care arrangements rather than in residential homes or other institutional settings. In order to address shortcomings in the coordination and implementation of policies and programmes, the Central Child Welfare Board was to be restructured and would in future be chaired by the Prime Minister. Concerted efforts were being made to increase budget allocations for child protection and other services.

39. Until the disaggregated results of the multiple indicator cluster survey could be processed, it would be difficult to determine what action needed to be taken to improve data collection in the State party. Efforts were being made to link the information systems of the various agencies, and a special software package was being developed by the Central Child Welfare Board.

40. Corporal punishment was on the decline, partly as a result of teacher training and partly thanks to a campaign launched in 2014 that had received support from numerous local and international NGOs. Nepal was an active member of the South Asia Initiative to End Violence Against Children (SAIEVAC), which worked to combat child marriage, corporal punishment and child labour. The new legislation that was being drafted took account of the best interests of the child, and children's participation was sought in all programmes affecting them. The provisions of the bill amending the Children's Act that dealt with crimes against children were more victim-oriented, and children's rights to confidentiality and to participation were explicitly established.

41. **Ms. Sandberg** said that Nepalese children themselves had made it clear that parental love and proper care were very important to them, yet they could see that their parents had many problems with drugs and alcohol, for example. Many parents left home to find work, leaving behind them child-headed households. Did the State party have any programmes designed to teach parenting skills? Many of the children sent to children's homes had at least one parent living: what did the State party do to prevent them from being placed in orphanages? The Government's written replies to the list of issues (CRC/C/NPL/Q/3-

5/Add.1) mentioned support programmes intended to enable families to keep their children; had those programmes been assessed and, if so, what results had they yielded?

42. She would like to know more about how the earthquake had affected children in Nepal, both those still with their families and those who no longer had a family. The written replies mentioned programmes that promoted family-based alternative care. Was there in fact a foster care system? According to information received by the Committee, such a system had not been introduced, yet the replies gave figures showing a decline in foster care in recent years. Were there other ways of providing family-based care, such as placement with members of the extended family? In general, she would like to know what measures were being taken to deinstitutionalize care, as many children were still living in institutions. What criteria were applied when deciding whether to place children in residential settings or foster care? Were such placements subject to regular review and time limits, for example? Placement decisions appeared to take no account of a child's cultural background, and she wondered what the State party was doing to correct that. What was the difference between child protection officers and child protection inspectors? Were they both trained social workers? She would be interested to learn how their work was coordinated at the local and district levels? Were there child protection officials in all parts of the country including remote areas?

43. The Committee had heard that some orphanages were profit-making enterprises and ran "voluntourism" schemes whereby tourists paid to volunteer in those orphanages for short periods of time. How were such businesses regulated? Was it possible that such arrangements might tend to create an incentive for taking children away from their families and placing them in such institutions? She would appreciate the delegation's comments on reports that children were sometimes stolen from their birth parents so that they could be put up for adoption. Did the State party plan to ratify the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption? As it was no longer possible for foreign couples to arrange for surrogate births, she wondered how children who had been born as a result of such arrangements were being cared for, since they could not be taken out of the country.

44. The State party's report referred to sexual and reproductive health services for adolescents. How were those services assessed? Could adolescents receive confidential counselling and were they attended by well-trained medical staff? Was information on sexual and reproductive health made available in schools? Intersex children in Nepal reported that they felt stigmatized. In the Committee's view, exposing intersex children to medically unnecessary procedures at an early age, before they could form and express their own views, amounted to a harmful practice. She wondered if the delegation was aware of that issue.

45. Although the education budget had grown in absolute terms, it had declined as a percentage of the total budget. She would appreciate an explanation. Free compulsory primary education was now provided by over 1,000 village development committees, and a further 500 had plans to do so. Would that then mean that the entire country would have coverage? How did the State party intend to implement the constitutional right to free education up to secondary level? Would secondary education, in addition to being free, be compulsory as well? Apparently, many children did not attend primary school because of hidden fees and costs for such items as uniforms and books. She was aware that legal action could be taken against schools that collected such fees, but she wondered whether that happened in practice. What plans were there to regulate the growing number of private schools? Was there a risk that their presence would hinder the achievement of equality in education? She would like to know how accessible schools were in remote areas and what was being done to reduce the dropout rate in secondary education and to encourage children, particularly girls and children in disadvantaged areas, who completed primary school to go

on to obtain a secondary education. She was pleased to hear that more girls' toilets would be provided in schools. Were arrangements being made to ensure menstrual hygiene by, for example, providing girl students with sanitary pads? She understood that girls were often required to give greater priority to household chores and caring for siblings than to attending school. What steps were being taken to help them to stay in school?

46. Enrolment rates for indigenous children were low and dropout rates high. Apparently 30 per cent of children did not have Nepalese as their first language. She would like to know what the State party was doing to promote the use of linguistically and culturally appropriate teaching methods for that group and whether it had a strategy to further develop multilingual education in the early grades. She would like to learn more about the measures being taken to improve the quality of education, in particular of human rights education, and to assess learning outcomes. While there had been a general increase in pre-primary school enrolment, she wondered whether that was also the case in remote areas and for all groups, including Dalits and indigenous students.

47. **Mr. Cardona Llorens** said that the definition of disability used in the 2011 census did not meet World Health Organization (WHO) standards and the exercise had consequently yielded misleading statistics that underestimated the percentage of children with disabilities. Did the State party have any plans to change that definition in order to obtain reliable data that could be used as a basis for the formulation of appropriate policies? Notwithstanding the constitutional principle of inclusion, the reality was that children with disabilities formed the majority of children who were not enrolled in school and who were placed in institutions. Moreover, cultural values led many parents to hide their own children away if they had disabilities. What measures were being taken to combat such stigmatization?

48. He would like to know what poverty indicators were in place for use in formulating policies that would help to put an end to the poverty that still plagued large parts of the country. Was there in fact a social security system in place?

49. He welcomed the State party's collaboration with the Office of the United Nations High Commissioner for Refugees (UNHCR), but noted that there was still no legal framework in place for refugee protection. Tibetan children were reportedly being forcibly returned to China, and other Tibetan refugees were not being issued identity papers. What steps were being taken to deal with that situation? He would appreciate comments on reports that refugees were unable to register the births of their children and had no access to education.

50. Over 600,000 children aged between 5 and 17 were apparently engaged in hazardous labour and, in all, over 1.5 million children were working. Notwithstanding the State party's ratification of the International Labour Organization (ILO) Minimum Age Convention (No. 138) and Worst Forms of Child Labour Convention (No. 182), the legal age in the State party for employment in dangerous forms of work was 16. What plans did the State party have to change the law in order to prevent children from engaging in dangerous work and to guarantee the rights of all children who worked?

51. Out of the total number of cases of trafficking detected in Nepal, 55 per cent involved children, some of whom were taken to India to work in brothels, while others went to work in Gulf countries and others were trafficked internally in the entertainment and prostitution industries. He would like to know what policies were in place to combat child trafficking.

52. **Ms. Muhamad Shariff** said that, despite considerable progress in reducing mortality and morbidity among children under 5 years of age, little headway had been made in reducing neonatal deaths and the occurrence of vaccine-preventable diseases. Infection remained a major cause of neonatal death, and childhood diseases were still a threat to

disadvantaged population groups. Mortality rates were linked to the accessibility and quality of health services. The Constitution guaranteed the right to basic health and social security, yet anaemia and malnutrition still affected large numbers of children, and stunting affected 41 per cent of all children under the age of 5. What plans did the State party have to address those concerns? Detailed information on the budget for child health services would be appreciated.

53. A 2011 survey had shown that none of the hospitals certified as "baby-friendly" was properly promoting breastfeeding. Only 45 per cent of newborns were given breast milk within an hour of delivery. There was no mechanism for monitoring compliance with the law regarding the sale of mother's milk substitutes, and there were disparities between the various legal provisions on maternity protection for working women.

54. Information on the mental health services available to children would be of interest. Were they child-friendly, free and confidential, and accessible to all children? He would also like to know whether psychological counselling services had been made available to earthquake victims.

55. According to information at the disposal of the Committee, persons between the ages of 10 and 19 accounted for 4.7 per cent of all reported cases of HIV, with more girls than boys being affected. Were medical services free of charge for children and their mothers? How frequent were follow-ups? Were there accessible clinics even in remote regions? The Global Fund to Fight AIDS, Tuberculosis and Malaria was currently the main source of funding in the area of HIV/AIDS; he wondered whether the Government had considered allocating financial resources for the Prevention of Mother-to-Child Transmission Programme.

56. According to information made available to her, the mean age at which the first instance of drug abuse occurred in Nepal was 17.2 years, and drug use sometimes started as early as 10. Alcohol use was also quite prevalent among adolescents and younger children. She would like to know whether the State party had any statistics on the prevalence of those problems. Were there any programmes or rehabilitation services for children involved with drugs or alcohol? She would like to know how the State party was dealing with the problem of the use of children for drug trafficking. Did the State party have any data on children who were in prisons with their mothers? Were the best interests of the children concerned taken into consideration in criminal proceedings involving their parents, particularly when judges were pronouncing sentence? She wondered whether the State party had statistics on the numbers of street children and what services the State party provided for that group, notably with regard to education and drop-in centres.

57. Sexual violence went largely unreported, with cases often being resolved within the community through monetary compensation or marriage of the victim to the perpetrator. Was there a complaint mechanism and support mechanisms for victims of sexual abuse? She would like to know whether officials who dealt with victims, including judges and police officers, were properly trained and whether there were women police officers in all police stations. What was the conviction rate? She would like to urge the State party to consider repealing the statute of limitations for the filing of rape charges and would appreciate some information on child helplines.

The meeting rose at 6 p.m.



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Committee on the Rights of the Child Seventy-second session

Summary record of the first part (public)* of the 2111th meeting
Held at the Palais Wilson, Geneva, on Friday, 20 May 2016, at 10 a.m.

Chair: Mr. Mezmur

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Convention on the Rights of the Child on the involvement of children in armed
conflict*

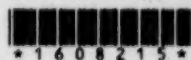
* No summary record was prepared for the rest of the meeting.

This record is subject to correction.

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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The meeting was called to order at 10 a.m.

Consideration of reports of States parties (continued)

Combined third to fifth periodic reports of Nepal (continued) (CRC/C/NPL/3-5; CRC/C/NPL/Q/3-5 and Add.1)

1. *At the invitation of the Chair, the delegation of Nepal took places at the Committee table.*

2. **Ms. Muhamad Shariff** (Country Task Force) said that the State party should reconsider the six-month statute of limitations for the crime of child rape. She was concerned that juvenile detention was not reserved for use only as a measure of last resort and that children were frequently held without charge, not brought before a judge within the required 24 hours, denied access to legal and other assistance, and placed in pretrial detention for petty crimes. Information before the Committee indicated that conditions in most detention facilities were very poor and that children were often held together with adults owing to a lack of juvenile facilities. There also appeared to be a lack of educational facilities in the country's prisons. It was her understanding that juvenile court judges had not yet been placed in all district courts and that some cases had been tried without child psychologists and sociologists being present, which was required under the Juvenile Justice Procedure Regulations. The majority of the children who were taken into custody were apparently from the most vulnerable communities, and their cases were usually dealt with by Chief District Officers, who could sentence people to imprisonment without observing due process or providing them with legal representation.

3. The minimum age of criminal responsibility, which was set at 10 years, should be brought into line with internationally accepted standards. The wording of the bill amending the Children's Act should be more explicit with regard to diversion programmes and restorative justice, the methodology for conducting preliminary inquiries and victim-offender mediation. She wished to know whether judges, lawyers and other persons working with children received training concerning child rights, whether there were rehabilitation programmes for juvenile offenders, whether legal aid was provided to all children in conflict with the law and whether there were plans to establish dedicated juvenile courts with specialized judges.

4. Noting that the criminal justice system in the State party was not victim-friendly, she asked whether the bill amending the Children's Act specified the rights and guarantees accorded to child victims and witnesses and the roles and responsibilities of the authorities in that regard. Were there any child-friendly procedures in place to ensure that children were protected throughout the criminal justice process? It would be useful to know how many child victims and witnesses of crime there were and what kind of support they had received. She also wondered why only 11 cases involving violations of children's rights had been handled by the National Human Rights Commission.

5. What kind of assistance had children from minority groups received in the aftermath of the earthquake of 2015? It would be interesting to know whether such children were able to practise their own religions and whether school textbooks were printed in minority languages. Was it true that, except in some areas of the Terai and some mountainous zones, children from minority communities were forced to speak Nepali in school?

6. **Mr. Sharma Duwadee** (Nepal) said that education was a top priority for Nepal and that the education sector therefore received the largest budgetary allocations. As reflected in the assessment of the School Sector Reform Programme, significant progress had been made in ensuring access to quality education. For example, 29,272 Early Child Development Centres had been funded by the Government in 2012-2013. Access to education was also promoted through school outreach programmes and a flexible schools

initiative, and the average walking distance to primary school currently stood at around 30 minutes. Research and development efforts were under way to ensure that school curricula addressed current needs and challenges. Furthermore, community-based school management committees had been set up with a view to increasing community ownership of education and upholding the rights of local populations, including indigenous groups. Targeted education programmes had been introduced for children from marginalized, isolated and deprived communities.

7. Expenditure on health had been trending upward for many years, and significant progress had been made in that sector. The immunization rate currently stood at 89 per cent; the prevalence of underweight children under 5 years of age had dropped to 30 per cent and the number of children suffering from wasting and stunting had also decreased as a result of the adoption of various measures to combat child malnutrition.

8. Poverty reduction remained a top priority. Around 45 per cent of the national budget was directly related to poverty reduction, and anti-poverty programmes were financed by the Poverty Alleviation Fund. For purposes of the design of anti-poverty strategies, poverty was defined not just in terms of income but also in terms of social indicators such as literacy, life expectancy and nutrition. Social welfare was also at the heart of State-run programmes, with around 11 per cent of the government budget being related either directly or indirectly to social security coverage. In addition, a health insurance system had been introduced to ensure universal access to health care.

9. **Mr. Prasad Regmi** (Nepal) said that his Government devoted around 3 per cent of the country's GDP to social welfare, and children, in particular, benefited greatly from expenditures in that area.

10. **Mr. Gnyawali** (Nepal) said that, while birth registration was not yet compulsory, all children enjoyed the constitutional right to be registered at birth. The main reason for some parents' failure to register the births of their children did not have to do with procedural or financial difficulties, but rather with a lack of awareness of the importance of doing so. Awareness campaigns were therefore being conducted and a specific government department for birth registration had been established. Existing legislation was being reassessed with a view to making birth registration compulsory, but that would require time.

11. The law regulating the activities of the National Human Rights Commission would be revised and brought into line with the Constitution. The Commission was an independent body with a dedicated desk for children's issues. The Citizenship Act was also being revised in line with the new Constitution, which provided that a child born to a Nepalese mother and an unknown father could be granted Nepalese citizenship by descent so long as the mother was a permanent resident of Nepal. The same applied to a child born to a Nepalese woman married to a foreign citizen as long as their permanent domicile was in Nepal.

12. Despite the various challenges it faced, Nepal was a party to the majority of core human rights conventions, and almost all fundamental human rights were enshrined in the new Constitution. Efforts were now focused on ensuring its implementation. Nepal would assess the institutional and legislative changes required in order for it to be able to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and would pursue the ratification of the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

13. Juvenile court judges had been placed in all 75 district courts. Chief District Officers were required to follow due process and were under the ongoing supervision of the courts. The Constitution provided that proceedings involving a child charged with any offence punishable by more than 1 year of imprisonment must be handled by juvenile court judges, rather than Chief District Officers. It also upheld victims' rights, making the criminal

justice system significantly more victim-friendly. The Truth and Reconciliation Commission was currently in operation and was governed by the applicable laws and court orders. The rule of law would not be compromised under any circumstances.

14. **Ms. Sandberg** (Country Task Force) said that she would be interested to learn whether the State party saw the emergence of private schools as a challenge and how such schools were regulated. She asked the delegation to clarify what proportion of the State budget was allocated to education.

15. **Mr. Sharma Duwadee** (Nepal) said that there was an effective regulatory mechanism in place for the supervision of private schools. District education offices and regional education directorates monitored the activities of such schools to ensure access, quality and inclusiveness.

16. **Mr. Prasad Regmi** (Nepal) said that the share of the national budget allocated for education had fallen from 16.78 per cent in the 2007/08 fiscal year to 12 per cent in the 2015/16 fiscal year, possibly owing to increased spending on earthquake-relief activities and reconstruction projects. However, education remained the largest budgetary expenditure item for the Government. In 2015/16, around 40 per cent of the education budget had been set aside for child-specific purposes. Students at private schools followed the curriculum set by the Curriculum Development Centre and sat State-approved examinations. A committee had been set up to monitor the levels of school fees, which were capped.

17. **Mr. Rupahketee** (Nepal) said that orphans and abandoned children tended to be sent to residential childcare homes, of which there were currently 577 housing around 16,000 children. Recently, however, efforts had been made to move away from institutional arrangements and to make greater use of family-based alternatives. A standard for the operation and management of residential childcare homes had been put in place. Children could be placed in a residential childcare home only if they had been orphaned and if a recommendation had been issued to that effect by the corresponding District Child Welfare Board or Village Development Committee. Personnel worked with families to improve parenting skills and to disseminate information on alternative care management through coordinated family support, poverty elimination and literacy programmes. A draft regulation on alternative care made provision for the use of foster care arrangements; however, no specific standards currently existed in that regard. Child Rights Officers employed by District Child Welfare Boards were gradually being replaced with appropriately trained, government-appointed Child Protection Officers and Child Protection Inspectors, who were responsible for promoting children's rights at the district level and managing individual cases. The local police authority and the District Child Welfare Board must be notified when children were admitted to, removed from or ran away from a childcare home. Surrogacy had been banned in Nepal; however, children born to surrogate mothers prior to the issuance of that decision could be taken out of the country.

18. According to a recent survey, children with disabilities made up around 2 per cent of the total population. Of that group, around one third had physical disabilities. Disabilities were classified as complete, severe, moderate or mild. In total, 10,257 children had been issued with disability identity cards. Those children benefited from scholarships and free textbooks, including material produced in Braille and audio formats. Children received monthly payments of 1,000 Nepalese rupees if their disabilities were classified as complete and of 300 Nepalese rupees if their disabilities were severe. Work was ongoing to construct accessible toilet facilities and school buildings, and standards for such facilities had been introduced.

19. In 2011, there had been around 600,000 children involved in types of employment classified as child labour. Efforts were being made to put an end to child labour through

advocacy, the enforcement of existing legislation, poverty elimination, awareness-raising and educational programmes, and inspections. Legislation on child labour was currently being amended to cover the informal sector. In order to tackle the problem of trafficking in persons, the Government had taken awareness-raising, prevention and protection measures, as well as pursuing the prosecution of traffickers, in cooperation with development partners and civil society organizations. Trafficking in Nepal was both cross-border and domestic in nature, and district and national-level monitoring committees made up of judicial and development officials had been set up to address the issue.

20. There were currently some 350 street children in Kathmandu and about 5,000 to 6,000 throughout Nepal. A directive on their rescue, protection and management had been enacted following consultation with civil society organizations. Thanks to recent efforts to get children off the streets of Kathmandu, to date around 100 children had been placed in drop-in centres, where they would stay for three months before being transferred to socialization centres for six months prior to family reunification. Child drug users were admitted to a rehabilitation unit. Two child telephone helplines, one regional and the other nationwide, had been set up to promote children's rights and to assist children who had gone missing.

21. In total, 1.1 million children had been affected by the earthquake. Over 2,700 had been killed, around 2,100 had been injured, 127 had been orphaned and 94 had been left disabled. Around 380,000 child earthquake victims had received physical and psychosocial support at the local level. A psychosocial counselling services unit had been set up in one State-run hospital, and similar assistance was being provided by a variety of institutions, including childcare homes and rehabilitation centres. The Central Child Welfare Board, with the financial and technical support of the United Nations Children's Fund (UNICEF), had launched a project designed to build resilience by helping to keep families together and make them less vulnerable to trafficking. As a result of that programme, 35,665 vulnerable children had been identified, around 16,000 had been reunited with their families and approximately 19,000 had been housed with relatives. Individual emergency financial support payments of from 4,000 to 5,000 Nepalese rupees had been made to several thousand affected children; in addition, several hundred child-friendly facilities and a number of woman-friendly facilities had been set up, and around 50,000 dignity kits had been distributed. School and hospital reconstruction projects had been made a priority as a part of a recently approved post-disaster recovery plan.

22. There were three residential juvenile correction facilities in Nepal, all of which were equipped with educational units staffed by State-assigned teachers. By the end of 2016, there would be juvenile justice courts in all 75 districts of the country.

23. **Ms. Muhamad Shariff** said that she would appreciate further information about the six-month statute of limitation for the crime of rape. She wished to know whether the authorities had a mechanism in place for dealing with children in street situations who did not have families, whether children often ran away from drop-in centres and whether the Government had a long-term plan in that regard. Information on the child telephone helplines' operating hours and the number of calls they received would be appreciated.

24. **Ms. Aldoseri** said that she would welcome information on the number of children enrolled in private schools, any measures taken to track changes in enrolment levels at those schools and specific reasons for any increases in enrolment. She would be interested to learn how private schools were monitored, what kind of training was provided to teachers concerning the Convention and what steps had been taken to incorporate the principles of the Convention into the curricula of private schools and to supervise teacher training in those institutions.

25. **Mr. Cardona Llorens** (Coordinator, Country Task Force) asked whether it was true that marriages in which the wife had become pregnant or given birth before the age of 18 could not be dissolved. If that were the case, then the relevant law would in fact be encouraging adolescent pregnancy. He also wondered whether children born to a Nepalese father and a foreign mother were barred from holding public service posts because they had not obtained nationality by origin. He would like to know what measures had been taken to tackle the high rate of early pregnancy, in particular in rural areas, and to ensure access to proper perinatal care and abortion services for young women. Had steps been taken to repeal the laws under which victims of the sale of children, child prostitution, child pornography and hazardous child labour could be prosecuted?

26. **Ms. Ayoubi Idrissi** said that she wished to know whether fees were charged for birth registration, whether there were any deadlines for late birth registration and, if so, whether parents failing to meet them had to go through the legal system in order to register a child's birth. When child marriages that had not yet been formalized produced offspring, what were the legal implications of the unofficial status of those unions in terms of the establishment of parentage and legal responsibility for the performance of parental duties?

27. **Mr. Prasad Regmi** (Nepal) said that children in street situations who were placed in drop-in centres were given time to adapt to a more conventional lifestyle before being transferred to socialization centres. In cases where family reunification was not an option, the children were provided with basic education and vocational training. He did not have an exact figure on the number of children attending private schools, but the majority of children attended public schools. Private schools were required to follow a curriculum set by the Government. The fees that they charged were monitored. Awareness of the Convention had been promoted in the country's schools with the help of a widely distributed poster produced for the occasion of International Children's Day. The Government had taken measures to ensure that basic health-care facilities were fully accessible to all members of the population, but a great deal of work nevertheless remained to be done on that front.

28. **Mr. Gnyawali** (Nepal) said that the parliament had considered various options before deciding on the statute of limitations for rape. A recent amendment had raised the legal age of marriage to 20 years for both men and women. Persons married before reaching that age could declare their marriage void if they so chose, unless they had children. Citizenship was granted to a person born in Nepal if he or she was resident in that country and was not already a citizen of another country. Naturalized citizens were barred only from holding certain high-ranking positions in the Government. A late registration of a birth could be carried out without recourse to the courts. Legal aid was provided by various means and was constitutionally guaranteed. Campaigns had been run across the country to raise awareness of the right to legal aid, but more work nevertheless needed to be done in that connection. Special provisions had also been introduced to promote child-sensitive justice.

29. **Mr. Rupakhetee** (Nepal) said that some street children had run away from the drop-in centres, but they had been brought back. There had been 1,658 calls to the 1098 child helpline in Kathmandu in 2013, 1,581 in 2014 and 3,047 in 2015. The calls had concerned a very wide range of issues, including physical, sexual and online abuse, disability, child marriage, neglect, drug use, the need for shelter and birth registration. Every effort was made to provide an appropriate response to each of the calls. The personnel in drop-in centres prepared files on the children without families which contained all the personal details and background information that could be gathered. The children were also provided with training in order to equip them with occupational skills.

30. A consultation had been held on the issue of street children in which street children themselves, along with other stakeholders, had been active participants. Some NGOs had

inadvertently been providing an incentive for children to remain on the street by supplying them with food and clothing there. Guidelines intended to harmonize the various efforts being made to assist street children had been drafted at the national level. Training manuals had been prepared for personnel involved in rescuing street children and running drop-in centres. The Government was not alone in working to improve street children's lives; it also provided NGOs with additional funding for their work in that area. Representatives of a number of political parties had been invited to discuss the issue, and a separate training manual had been prepared for persons involved in the reintegration of street children into society. Other training options for street children were also being considered. The Government's efforts had thus far been focused on Kathmandu but were to be extended to other cities.

The meeting was suspended at 11.30 a.m. and resumed at 11.45 a.m.

31. **Ms. Sandberg** asked what psychosocial support was made available to married girls who wanted to declare their marriage null and void.

32. **Mr. Prasad Regmi** (Nepal) said that the Government's recently adopted strategy for putting an end to child marriage by 2030 set out the support, in particular legal support, available to victims of child marriage.

33. **Mr. Rupakhetee** (Nepal) said that the strategy was in the second phase of its development. The Government was drawing up plans for its implementation and funding. The strategy made provision for assisting the victims of child marriage to annul their marriage and perhaps even to secure compensation. If they chose not to declare their marriage void, they would be entitled to receive reproductive health services, including contraceptive services, and would be supported in their return to education, both of which were effective methods of delaying pregnancy.

34. **The Chair** said that some of the questions that had been raised which remained to be answered had regarded the issues of glue-sniffing and substance abuse among schoolchildren, the issue of children living behind bars with their imprisoned parents, the involvement of children in drug trafficking and the support given to child victims of sexual abuse.

35. **Mr. Cardona Llorens** asked whether all the recommendations made by the Committee four years previously in its concluding observations with regard to the implementation of the Optional Protocol on the sale of children, child prostitution and child pornography (C/C/OPSC/NPL/CO/1) had been acted upon. The Committee had recommended that a number of specific offences should be entered into the Criminal Code. Had that been done? The Committee had also noted in its concluding observations that child victims of sexual exploitation were at risk of being arrested under the provisions of the 1970 Public Offences and Control Act. Had those provisions been repealed? Had the State party followed the Committee's recommendations regarding extraterritorial jurisdiction? He also wished to know whether measures were in place to ensure that child victims of offences covered by the Optional Protocol were treated appropriately.

36. **Ms. Sandberg** asked whether the Government intended to accede to the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

37. **The Chair**, noting that intercountry adoptions had been suspended in the State party, said that it would nevertheless be helpful for the Committee to know whether or not the State party had a concrete time frame for accession to that treaty. Given the large number of languages spoken in the State party, what efforts were being made to provide linguistically and culturally appropriate education for all children? Additional information on the situation of Dalits in the country would also be helpful.

38. **Ms. Aldoseri** asked what percentage of children attended private schools.
39. **The Chair** asked whether the Government had any plans to place a limit on that percentage.
40. **Mr. Prasad Regmi** (Nepal) said that, although he did not have immediate access to specific figures, many more children attended public schools than private schools. The Government had no plans to limit private school attendance. Private schools were subject to regular monitoring. The Government limited the fees that they could charge, and their textbooks and curricula were subject to government approval. As for the question regarding languages of instruction, all children had the right to have instruction at the primary school level delivered in their native language. Indeed, given the diversity of Nepalese society, it was difficult for a school to be run in a single language. The curriculum was already available in 16 or 17 languages.
41. Only 95 children in the country were living with an imprisoned parent. Although the Government did not run its own rehabilitation centres for children who had to live in prison, it worked closely with civil society organizations to provide services to such children. As an example of the contribution made by civil society organizations, he could mention Pushpa Basnet, the winner of a CNN Hero Award, for her work with children living in prison.
42. The delegation had prepared itself to reply to questions on the implementation of the Convention on the Rights of the Child, and replies to questions concerning the Optional Protocol on the sale of children, child prostitution and child pornography would be provided during the portion of the meeting set aside for consideration of the implementation of that instrument.
43. **Mr. Gurán** asked the delegation to provide information on the measures in place for monitoring the situation of children, particularly boys, who were living in monasteries and were isolated from their families.
44. **Ms. Sandberg** said that she would appreciate receiving a response to her request for information about intersex children, some of whom underwent operations with their parents' consent. She would also like the delegation to comment on the existence of orphanages that were supported by wealthy tourists, which could potentially create an incentive for putting children into those institutions.
45. **Mr. Rupakhetee** (Nepal) said that the Government had made it very clear that children should not be forced to follow a particular ideology, and it was working to gain greater access to information on the monasteries and their activities. The Monastery Development Committee of the Ministry of Federal Affairs and Local Development had met with the monastic authorities to request information on the numbers of children living in such establishments, their places of origin and the educational curricula they were following. A national consultation would be undertaken to ensure that monasteries provided all the required information and followed the national curriculum.
46. Under the Children's Act of 1992, all orphanages, which were usually known in Nepal as childcare homes, had to be registered with the authorities, but a number of unregistered institutions were nonetheless in operation. Orphanages were monitored on a regular basis, and any orphanages found to be violating the rules were closed down. When a child was to be adopted, prior notification of all interested parties was required, but that sometimes proved problematic in rural areas where there were no local newspapers and limited Internet access. The authorities endeavoured to ensure that all adoptions were made public before they were finalized.
47. **Mr. Prasad Regmi** (Nepal) said that the Constitution prohibited any form of discrimination on the grounds of gender, and there was no discrimination in the country

against intersex persons. The Government had recently begun to issue citizenship certificates, passports and voting cards that offered the option of identifying as a gender other than male or female.

48. The work required to frame the country's new Constitution had limited the Government's ability to devote time to the ratification of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, but the Convention would be ratified in due course.

49. **Mr. Cardona Llorens**, noting that the delegation had not yet responded to a question concerning child refugees and asylum seekers, said that he would appreciate information about action taken in response to recommendations made by the Committee in its concluding observations (CRC/C/15/Add.261) in 2005 regarding the improvement of the legal framework for the protection of such children. Information would also be appreciated about reports of the forced return of Tibetan children to China and about the lack of refugee certificates and identity documents for Tibetan children born after 1979, who were at risk of being stateless without such documentation. Despite the State party's collaboration with the Office of the United Nations High Commissioner for Refugees (UNHCR), there continued to be issues around the fulfilment of the rights of Tibetan children.

50. **Mr. Gnyawali** (Nepal) noted that, as stated in the report, the country's political situation was such that it was unable to welcome refugees. Some had nevertheless arrived from Bhutan and Tibet, and between 70 and 80 per cent of Bhutanese refugees had since moved on to third countries such as Canada. The State did not have an asylum system, but people arriving without a visa who found themselves in need of humanitarian assistance were covered by a cooperation agreement between the Government and UNHCR under which they were able to travel to a third country. There were no forced returns to their country of origin, and Tibetans were not sent to China. Births of Tibetan children in refugee camps were recorded, access to services such as education and health were not withheld, and the authorities provided travel documents to enable child refugees to travel on to India, the United States or other countries with their parents. The country was not party to the 1951 Convention relating to the Status of Refugees and could not accept refugees. Any assistance provided to refugees was purely a humanitarian matter, and statelessness was not an issue.

Initial report of Nepal on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/NPL/1; CRC/C/OPAC/NPL/Q/1 and Add.1)

51. **Mr. Cardona Llorens** said that he would like to congratulate the State party on having prohibited forced recruitment into the armed forces and voluntary recruitment of persons under 18 years of age. Noting that the report contained an extensive section on the coordination of efforts to apply the Optional Protocol to the Convention of the Rights of the Child on the involvement of children in armed conflict, he asked for clarification as to which authority was responsible for overseeing the implementation of the Optional Protocol and for information on the financial resources which had been allocated for that purpose.

52. Since the births of many people in the State party had not been registered, he wished to know how recruits' ages were verified, whether a person whose birth had not been registered was unable to volunteer and whether anything other than a birth certificate was accepted as proof of age. As the recruitment of minors was prohibited by army regulations but not recognized as a criminal offence, he wished to know what, if any, sanctions were applied to persons who recruited minors. Furthermore, if it was not a crime in Nepal, could persons who had recruited minors in another country be extradited under the State party's double criminality provision? He would also like to know whether the State party's provision for extraterritorial jurisdiction in cases where the victims were Nepalese would

apply in such cases. Clarification of the State party's position on ratification of the Rome Statute of the International Criminal Court would also be welcome.

53. Could the delegation confirm that the Truth and Reconciliation Commission would comply with the decisions issued by the Supreme Court that had annulled some of the provisions included in the law under which the Commission had been created? The Committee was aware that the law in question did not specifically cover the types of acts that would constitute violations under the Optional Protocol but assumed that the general provision under which the Commission had jurisdiction over acts that ran counter to international humanitarian and human rights laws would be interpreted as covering such violations. Clarification on that point would be welcome.

54. Noting that a complaint which had been lodged with the Commission by a group of some 4,000 former child soldiers had been deemed to fall outside its area of competence, he wished to know whether the Commission was authorized to consider acts recognized as crimes under the Optional Protocol. He would be interested to learn what types of compensation the Commission could award and what measures were in place to protect children from reprisals after lodging a complaint. As the recruitment and use of child soldiers were not criminal offences in the State party, how could persons who had committed those acts be brought to trial? It was to be noted that the redress offered to the 2,973 former child soldiers covered by the agreement concluded in 2009 had been confined to vocational training grants and scholarships; they had not been provided with compensation or with physical or psychological rehabilitation services because they had not been recognized as victims. Was that situation going to be rectified?

55. He asked the delegation to confirm that schools run by the Ministry of Defence for the children of military personnel and police officers were not pre-military academies, that they followed the same curriculum as other schools and that no military training or use of weapons took place there.

The discussion covered in the summary record ended at 12.35 p.m.



Convention on the Rights of the Child

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Committee on the Rights of the Child Seventy-second session

Summary record (partial)* of the 2112th meeting

Held at the Palais Wilson, Geneva, on Friday, 20 May 2016, at 3 p.m.

Chair: Mr. Mezmur

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Consideration of reports of States parties (*continued*)

Initial report of Nepal on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (*continued*)

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The meeting was called to order at 3 p.m.

Consideration of reports of States parties (continued)

Initial report of Nepal on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (continued) (CRC/C/OPAC/NPL/1; CRC/C/OPAC/NPL/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Nepal took places at the Committee table.*
2. **Mr. Prasad Regmi** (Nepal) said that Nepal had undergone an armed conflict which had lasted from 1996 to 2006 and which had resulted in the death of around 16,700 persons, the displacement of around 78,600 persons, the disappearance of around 1,300 persons and the devastation of its public infrastructure. On 21 November 2006, the conflict had been brought to an end with the signing of the Comprehensive Peace Agreement between the Government of Nepal and the Communist Party of Nepal (Maoist). On 9 December 2006, the Agreement on Monitoring of the Management of Arms and Armies had been concluded in the presence of the Personal Representative of the Secretary-General of the United Nations. The United Nations Mission in Nepal had confirmed that 2,973 minors had participated in the conflict as at the time of the ceasefire, of whom 1,988 were male and 985 were female.
3. Nepal had ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 3 January 2007 and remained committed to its implementation and to the realization of the rights of all children. It had also signed the Paris Commitments to protect children from unlawful recruitment or use by armed forces or armed groups in February 2007. The country's new Constitution enshrined the rights of children as fundamental rights and prohibited the involvement of children in armed conflict. The bill amending the existing Children's Act, which would change the definition of a child so that any person under 18 years of age would fall into that category, set out the Government's obligations towards children. The strategies adopted under the National Plan of Action for the Rehabilitation and Reintegration of Children Affected by Armed Conflict centred on, inter alia, ensuring accountability and transparency in respect of children's rights and humanitarian principles; preserving the confidentiality of information about children; and fostering collaboration among stakeholders.
4. The support provided to children who had been involved in armed conflict included a monthly allowance for those children who were orphans, scholarships and the delivery of rehabilitation services under a programme carried out in cooperation with the United Nations Children's Fund (UNICEF). The Government's Central Child Welfare Board, with financial support from the European Union, had launched a special programme to assist specific groups of children affected by armed conflict, including children who had been displaced, become orphans or separated from their family, children who had been abducted, wounded, sexually exploited or left with disabilities, and children whose families struggled to meet their basic needs. Under that programme, children who had been involved in armed conflict and their families received education and training, as well as health care and income generation support. Legal assistance was also provided to children who had come into conflict with the law. A number of initiatives to promote the reintegration and deinstitutionalization of those children had also been undertaken. Data collected in the 20 districts where the programme operated pointed to the existence of at least 16,900 children who had been affected by armed conflict. The families of children who had sustained injuries or who were living with a serious disability as a result of their involvement in armed conflict were provided with compensation. The adoption of the national framework and implementation guidelines for the "Schools as Zones of Peace" initiative, which had been launched by the Government in 2011, had constituted a major step towards putting an

end to the use of schools by security forces, armed groups and political parties. To date, around 30 political parties had expressed their commitment to that goal.

5. The Government's efforts to protect children from violence, abuse, exploitation, discrimination and involvement in armed conflict were often hampered by the absence of a comprehensive community support system and an effective child protection mechanism; unfortunately, that mechanism could not be strengthened because the necessary resources were not available. Similarly, the State bodies responsible for overseeing the realization of children's rights in Nepal could not function effectively on account of a lack of technical capacity. More staff needed to be recruited and trained in order to ensure the delivery of quality services to children affected by armed conflict and to develop more sustainable, longer-term strategies for improving their situation.

6. The Truth and Reconciliation Commission created pursuant to the Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act of 25 April 2014 was now operational and had begun to investigate cases involving the recruitment and use of children in armed conflict. The Ministry of Peace and Reconstruction was responsible for coordinating all efforts related to the peace process in Nepal, including the administration of post-conflict justice and reparations.

7. Although birth registration was not compulsory in Nepal, any young person who applied to join the armed forces or the police service was required to produce a citizenship certificate or a certificate from his or her school which either stated his or her date of birth or allowed it to be calculated. The application of any young person who had not reached 18 years of age was rejected out of hand. The prohibition of the recruitment of children into the army, police service or armed forces set forth in the new Constitution extended to the conscription of minors. Therefore, under Nepalese law, any person who recruited or attempted to recruit a child to participate in an armed conflict was liable to punishment and any child who was involved in armed conflict was eligible for compensation from his or her recruiter. The bill amending the existing Children's Act defined the crime of involving children in armed conflict in more detail.

8. Nepalese extradition policy was based on the principle of reciprocity, and a bilateral agreement between Nepal and the requesting State had to exist in order for an extradition to take place. The new Constitution provided that all orders or verdicts handed down by Nepalese courts, including the Supreme Court, were legally binding on all persons and State bodies, which included the Truth and Reconciliation Commission. The Commission was also competent to examine cases involving crimes against humanity. Under the Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act of 25 April 2014, the Truth and Reconciliation Commission could receive complaints from children involved in armed conflict directly or from a third party on their behalf. The Commission could provide protection to witnesses and other parties if the need arose. There was also a special procedure in place whereby children could lodge a complaint through any government office in the country or by means of a dedicated hotline. The Ministry of Peace and Reconstruction was responsible for matters relating to the rehabilitation and support of children affected by armed conflict. A total of 0.42 per cent of the national budget had been allocated to the Ministry, and 45 per cent of that amount was devoted to meeting the needs of children. The curriculum in the academies run by the armed forces and the police service was the same as the one used in public schools. Those academies were open to all children in Nepal.

9. Section 23 of the bill amending the Children's Act would make child pornography a crime, as had been recommended by the Committee.

10. **Mr. Cardona Llorens** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) said that he wished to know what specific

penalties, if any, would be established for persons found guilty of recruiting children for use in hostilities. He wondered how the Nepalese authorities handled extradition requests involving persons suspected of such recruitment, since it was not currently a crime in the State party. The Committee was especially concerned about the thousands of former child soldiers in Nepal who were not among the 2,973 children officially recognized as having been affected by the recent conflict. Those former child soldiers, like other children used by armed groups or the country's armed forces, were victims, and as such they should be given opportunities to seek justice and obtain compensation.

11. He wondered whether it would not be preferable to define child pornography as a crime under the Muluki Ain (General Code) rather than by means of the bill amending the Children's Act. He wished to know whether child prostitutes were still treated as offenders and detained or prosecuted under the 1970 Public Offences and Control Act, several provisions of which the Committee had urged the State party to repeal in its concluding observations on the initial report of Nepal under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/NPL/CO/1). Had the State party amended its legislation to enable it to establish and exercise extraterritorial jurisdiction over all crimes covered by the Optional Protocol, as the Committee had also recommended?

12. **Ms. Ayoubi Idrissi** asked whether the Truth and Reconciliation Commission had received any complaints from children concerning crimes covered by the Optional Protocol on the sale of children, child prostitution and child pornography or the Optional Protocol on the involvement of children in armed conflict. If so, how many such complaints had been submitted and what had the outcome been? She would like to learn what the State party did to rehabilitate Nepalese children who were rescued from prostitution in Nepal, India and other countries. She also wished to know whether the Optional Protocols, like the Convention, had been translated into the local languages and widely disseminated.

13. **Ms. Aho Assouma** said that she wondered why birth registration was not compulsory, especially since efforts to overcome one of the problems faced by the State party — namely, the prevalence of child marriage — would be more effective if all children had birth certificates. She would like to know whether there were literacy and mental health programmes for demobilized children and whether children who had been left with permanent disabilities after the recent conflict were provided with orthopaedic devices. In addition, she wished to know whether any children had contracted HIV/AIDS as a result of rape and, if so, whether they had access to antiretroviral therapy. What measures had been taken to provide support for children born as a result of rape during the armed conflict?

14. **Mr. Prasad Regmi** (Nepal) said that many kinds of support, including monthly allowances, stipends and scholarships, rehabilitation, psychosocial counselling and vocational or life-skills training, were provided to children affected by the conflict. Nepal had taken at face value the findings of the United Nations Mission in Nepal and UNICEF that there had been 2,973 child members of Maoist armed groups. It was nonetheless possible that the true figure could have been higher. The Truth and Reconciliation Commission had received some 4,000 complaints in the one month since it had begun accepting them. There had not yet been enough time to compile statistics on what they concerned or who had submitted them.

15. **Mr. Gnyawali** (Nepal) said that the bill amending the Children's Act would make the recruitment of children for use by armed groups punishable by a fine of up to 1 million Nepalese rupees, a sentence of imprisonment of up to 15 years, or both. It was true that extraditing a person implicated in activities that were not a criminal offence as such under Nepalese law would be difficult.

16. Children involved in such activities as pornography were treated as victims, not as common criminals. Internet activities were regulated by the Electronic Transaction and Digital Signature Act-Ordinance.

17. **Mr. Rupakhetee** (Nepal) said that a recent survey carried out by the Ministry of Women, Children and Social Welfare in 20 districts that had been involved in the armed conflict had found that nearly 17,000 children had been affected in some way. The Government was currently running a project under the Nepal Peace Trust Fund to support children affected by the armed conflict, including displaced children, children whose parent or guardian had been killed, disappeared or disabled, children dependent on a parent who had been affected by the armed conflict and child victims of sexual exploitation. The project provided psychosocial counselling and various training packages. Other components included advocacy, support for education and for health, and the "Schools as Zones of Peace" initiative. He was not in favour of using the term "sex slaves", but there had been reports of incidents of sexual abuse and exploitation in the course of the conflict.

Combined third to fifth periodic reports of Nepal (continued) (CRC/C/NPL/3-5; CRC/C/NPL/Q/3-5 and Add.1)

18. **Mr. Rupakhetee** (Nepal) said that the Convention and both Optional Protocols had been translated into local languages and distributed to the police, the judiciary and the public prosecutors of all districts. Those texts were also circulated by NGOs at the local level. As part of the campaign to combat corporal punishment, all orientation and training programmes included a session on the Convention and on positive discipline and positive parenting. Efforts were made to send as many demobilized children to school as possible. Those who opted not to enter the formal education system went into vocational training courses and learned a trade.

19. As to the question about whether the subsidy for persons with disabilities was sufficient to cover rising prices, the amount of that subsidy could be reviewed and perhaps raised if the corresponding budget increase could be secured. Medical facilities and antiretroviral treatment were available and accessible to all persons living with HIV, including children affected by the armed conflict.

20. **Mr. Cardona Llorens** said that the State party had sent out contradictory messages about its intentions with regard to ratification of the Rome Statute of the International Criminal Court. He would like to know whether the State party was in fact going to ratify the Rome Statute. Whether it ratified it or not, did the State party intend to make the recruitment of children a war crime under Nepalese law?

21. **Ms. Aho Assouma** said that she was not satisfied with the delegation's replies regarding birth registration. It had stated that the registration rate was up to 52 per cent, but her understanding was that there were disparities in registration rates that had to do with the sex of the child, the place of residence and socioeconomic status. It appeared that people who were better off financially were the ones whose children were registered, and she wondered why that was so: was there a cost attached to registration? The delegation had still not said why the State party did not simply make birth registration compulsory; failure to register births impeded the enforcement of the country's laws prohibiting child marriage.

22. **Mr. Prasad Regmi** (Nepal) said that, as reported to the Human Rights Council during its consideration of the human rights situation in Nepal in the course of the universal periodic review, his Government had set up a working group to consider whether to ratify the Rome Statute. A new law on birth registration was being drafted. He was personally in favour of making registration compulsory and hoped that a provision to that effect would be included in the bill.

23. **Ms. Sandberg** (Country Task Force) said that the basic challenges faced by the State party, such as poverty and the impact of the earthquake (which had, after all, taken place only just over a year earlier), needed to be taken into account. The delegation had demonstrated that there was a desire to make progress in upholding children's rights. It had nevertheless frequently given the impression that all was well, and it had been difficult for the Committee to grasp what problems the State party believed it needed to make a determined effort to address. She did not believe, for example, that the State party had yet understood the full implications of the increase in the number of private schools. The new Constitution represented a huge step forward; it now had to be implemented, and the amendment of the 1992 Children's Act was an important step in that direction. In addition, the Civil and Criminal Codes needed to make explicit reference to the best interests of the child; the delegation had not made a clear statement of intent in that regard.

24. **Mr. Prasad Regmi** (Nepal) said that Nepal was undergoing major changes following the adoption of the new Constitution. Previously, decisions had been taken centrally, but with the shift from a unitary to a federal State, the resolution of issues such as birth registration, health and the regulation of private schools could be devolved to the local level. Even so, the Government's efforts alone might well prove to be insufficient, and he wished to call on the international community to provide Nepal with further support and cooperation in accordance with the principle of common but differentiated responsibility.

The discussion covered in the summary record ended at 4.30 p.m.